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Regulatory Update

US, March 2025

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LATEST DEVELOPMENTS

March 12, 2025 – SEC No-Action Relief on Rule 506(c) Verification

The Securities and Exchange Commission (SEC) issued a no-action letter in response to a request from Latham & Watkins LLP, providing important clarification on the reasonable steps an issuer must take to verify accredited investor status under Rule 506(c) of Regulation D.

The relief confirms that relying on third-party verification remains permissible, and provides examples of acceptable practices that satisfy the Rule's verification requirement. This letter may offer issuers more certainty when using private placement exemptions under Regulation D.

Read the full SEC letter here.

March 14, 2025 – Extension of Compliance Deadlines for the Names Rule

The SEC has extended the compliance dates for the Investment Company Act "Names Rule" amendments, originally adopted in 2023.

- **Larger fund groups** must now comply by June 11, 2026 (extended from December 11, 2025).
- **Smaller fund groups** have until **December 11, 2026** (extended from June 11, 2026).

The Names Rule requires funds whose names suggest a particular investment focus to align at least 80% of their assets accordingly and to adopt enhanced monitoring procedures.

Read the full SEC press release here.

March 19, 2025 – SEC Updates Marketing Rule FAQ

The SEC issued new guidance under the Marketing Rule in the form of updated FAQs, addressing how advisers should handle updates to non-performance content in marketing materials as well as the use of extracted performance. The update focuses on ensuring clarity, consistency, and comparability in marketing presentations.

- **Changes to non-performance characteristics** – The FAQs clarify that updates to factual, non-performance information (e.g., changes to key personnel, firm ownership, or legal disclosures) do not require re-preparing or re-presenting performance figures, so long as the performance data remains current and compliant. However, firms must ensure that any updated materials do not create a misleading impression when paired with performance results.
- **Extracted performance** – The SEC further addressed how advisers may present performance results for a subset of investments within a single portfolio. The FAQ clarifies that investment advisers may present gross extracted performance without a corresponding net extract, provided the following conditions are satisfied:
  - Extracted results must be clearly labeled as gross and accompanied by a statement such as: "This extracted performance does not reflect the deduction of fees and expenses that a client or investor has paid or would have paid."

- Advisers must also present the gross and net performance of the entire portfolio from which the extracted results were taken, consistent with the Marketing Rule's requirements.
- The performance of the full portfolio must be shown with equal or greater prominence than the extracted performance. While the extracted figures may appear on a later page, the full portfolio data must be presented earlier in the materials and in a format that enables meaningful comparison. Prominence extends not just to placement, but also to visual emphasis (e.g., font size, chart design).
- The gross and net returns for the entire portfolio must span at least the same time period as the extracted data. This does not require inclusion of all standard time periods under the Rule, so long as the timeframe used is clearly disclosed and covers the extracted period.

Advisers using extracted performance should also retain records supporting the calculation and appropriateness of the extracted figures, particularly to avoid cherry-picking or other misleading practices.

Read the FAQs here.

March 21, 2025 – FinCEN Interim Rule on Beneficial Ownership Reporting

Financial Crimes Enforcement Network **(**FinCEN) announced a significant shift in its approach to the Corporate Transparency Act (CTA) reporting requirements. Under the new interim rule:

- **US companies and US persons** are no longer required to report beneficial ownership information to FinCEN.
- **Foreign entities** must comply by new staggered deadlines to be announced later in 2025.

This development marks a shift away from FinCEN's previously expansive reporting framework and suggests a more targeted approach to implementing the Corporate Transparency Act.

Read the full press release here.

March 27, 2025 – SEC Withdraws Legal Defense of Climate Disclosure Rules

The SEC formally ended legal defense of its climate-related disclosure rules, originally adopted in 2023. While the agency has not repealed the rules outright, the decision raises questions about their enforceability. Market participants should continue to monitor for further developments, particularly given ongoing litigation and potential for SEC staff to issue interpretive guidance or modify the rules via new proposals.

Read the full SEC press release here.

RULEMAKING WATCH

FinCEN AML Rule for Investment Advisers – Effective January 1, 2026

FinCEN finalized rules requiring registered investment advisers and exempt reporting advisers to adopt Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) programs and file Suspicious Activity Reports (SARs).

Key requirements include:

- designation of a compliance officer
- ongoing employee training
- independent testing
- customer due diligence policies.

These rules bring investment advisers into alignment with financial institutions already subject to the Bank Secrecy Act.

Find out more here.

Amendments to Regulation S-P – Staggered Compliance Deadlines

In March 2024, the SEC adopted amendments to Regulation S-P, significantly strengthening the privacy and data security obligations imposed on registered investment advisers, broker-dealers, and investment companies. The amended rule imposes new requirements for safeguarding customer information, responding to data breaches, and managing service provider risks.

The amendments introduce the following key changes:

- **Incident Response and Notification Requirement**:
  Advisers must adopt written policies and procedures to detect, respond to, and recover from data breaches and other unauthorized access to customer information. In the event of a data breach that is "reasonably likely to result in substantial harm or inconvenience," firms must notify affected individuals as soon as practicable, but no later than 30 days after becoming aware of the incident.
- **Expanded Safeguards Rule**:
  The revised rule broadens the definition of "customer information" to include not only nonpublic personal information of clients but also any data obtained from other financial institutions. Advisers must implement robust safeguards to protect this broader set of information.
- **Service Provider Oversight**:
  Firms must take reasonable steps to ensure that service providers (e.g., third-party IT vendors or data processors) are maintaining appropriate security measures to protect client data. This includes conducting due diligence, incorporating data protection obligations into contracts, and ongoing monitoring.
- **Recordkeeping**:
  Advisers must retain records of compliance with Regulation S-P, including incident response

documentation, for a minimum of five years, consistent with existing recordkeeping requirements under the Advisers Act.

Staggered Compliance Dates

To allow firms time to implement the necessary operational changes, the SEC established the following tiered compliance timeline:

- **Large advisers** (AUM ≥ $1.5B): must comply by December 3, 2025
- **Small advisers** (AUM < $1.5B): must comply by June 3, 2025

Firms are encouraged to review their incident response plans and vendor oversight processes in preparation.

Read the full SEC press release here.

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Waystone brings over 20 years of experience working with clients regulated by US regulatory bodies such as the Securities and Exchange Commission (SEC) and the Commodity Futures Trading Commission (CFTC). Our team is equipped to provide bespoke, risk-focused, and cost-effective solutions tailored to meet US regulatory requirements. With extensive experience in the US financial landscape, we deliver the expertise you need while enhancing your corporate governance standards.

If you'd like to discuss the themes raised in this guide with one of our US Compliance Solutions team members and learn how we can assist you, please contact us below.

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This Regulatory Update provides information about the consultative documents and publications issued by various regulators which are still current, proposed changes to the Rules and Guidance set out in Handbooks, actual changes to Rules and Guidance that have occurred in the months leading up to the update and other matters of relevance to regulated firms. This Regulatory Update is intended to provide general summarized guidance only, and no action should be taken in reliance on it without specific reference to the regulators' document referred to therein.